



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,430	03/01/2004	Thomas R. Magnuson	34743/0004	5397

30983 7590 02/21/2007
MCDONOUGH, HOLLAND & ALLEN
555 CAPITOL MALL
9TH FLOOR
SACRAMENTO, CA 95814

EXAMINER

ALIE, GHASSEM

ART UNIT	PAPER NUMBER
----------	--------------

3724

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/791,430

Applicant(s)

MAGNUSON ET AL.

Examiner

Ghassem Alie

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41, 43, 44 and 46-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41, 43, 44 and 46-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Specification

1. The amendment filed 05/03/06 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: added Figs. 6 and 7 and its description on paragraphs 18-20 in specification are not supported by the original disclosure. The original disclosure fails to teach the exact location of the brake release handle on a chain saw. The original disclosure fails to teach a chain saw that looks like the chain saw in Figs. 6-7. The original disclosure also fails to teach that the brake release handle is simply connected to the exterior of the housing of the chain saw by a single screw, as shown in Figs. 6-7. It should be noted that a brake release handle should pivotally engage the brake mechanism within the housing of the chain saw such as shown in Schurr (4,683,660). The original disclosure also does not teach that the light source illuminate the chain saw in a manner as shown in Fig. 6. Fig. 6 shows that the light beams overlapped in a manner that the middle beam project further behind the upper and lower beams in front of the chain saw machine. This has not been disclosed in the original disclosure. In addition, it is not clear how the brake lever can function, if securing means or fastening means simply secures the brake lever to the exterior of the housing. Applicant argued that the original specification teaches that the chain saw in Schurr (4,683,660) is an appropriate example for such a chain saw assembly that could be modified to have a light source. Therefore, it is suggested that the chain saw in Schurr to be used as an exemplary view of the chain saw that has a light source as described

in the instant application. In this case, the brake lever in the instant application could replace the brake lever in Schurr.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 44 and 46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claims 44 and 46, "the translucent material" lacks insufficient antecedent basis.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all Obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patent ability shall not be negative by the manner in which the invention was made.

5. Claims 41, 43-44, 46-51, and 54-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Casas (2002/0054491 A1) in view of Overy et al. (4,335,514), hereinafter Overy, and in further view of Richards et al. ((2004,0050188), hereinafter Richards.

Regarding claim 41, Casas teaches a motor chain saw 4 having a handle or a handguard attached to the housing of the motor chain saw 4. Casas also teaches that the handguard or handle having a front wall and a rear wall and a light source 6. See Fig. 3 and paragraph 19 in Casas. Casas also teaches that the light source 6 is secured to the handguard or handle and is

Art Unit: 3724

adapted to emanate from the front wall. It should be noted that the light source 6 is part of the front wall of the handle or handguard.

Casas does not explicitly teach that the handle or handguard is also a brake release handle that operatively is connected to a braking mechanism and the front wall includes plexiglass.

However, Overy teaches that a handguard, similar to the handguard shown in Casas, which is part of a braking mechanism. Overy teaches a braking mechanism 34 that includes a brake lever 36 which is also a handguard 40 and is located in front of a front handle 42. See Figs. 1-5 and col. 2, lines 9-56 in Overy. It should be noted that the brake lever 36 in Overy also includes an upper portion that is handguard 40 and is located in front of the front handle, the same place that the handguard with a light source is located in Casas. Therefore, it would have been obvious to a person of ordinary skill in the art to use the handguard in Casas' chain saw also as a brake release that is connected to a braking mechanism, as taught by Overy, in order to pivot the handguard and stop the rotation of the saw chain when is desired.

Casas, as modified above, does not explicitly teach that the light source has a cover or a front wall that includes plexiglass. However, the use of plexiglass with a light source in tools is well known in the art such as taught in Richards. Richards teaches a light source 30 includes a front wall or a cover 62 that comprises of a translucent or transparent material such as plexiglass, glass, polycarbonate, or another type of translucent or transparent material. See Figs. 1-3 and paragraph 27 in Richards. It would have been obvious to a person of ordinary skill in the art to provide the light source in Casas' chain saw, as modified by Overy, with the translucent cover or front wall that includes plexiglass, as taught by

Richards, in order to cover the light source with translucent or transparent material that emanate the light and protects the light source.

Regarding claims 43-44 and 46 Casas, as modified by Richards, teaches everything noted above including that the front wall is a cover 62 that reversibly is attached to the brake release handle. It should be noted that the cover 62 can be reversed and attached to the handle. See Fig. 1 Richards. In addition, in addition to the degree that it could be argued that the cover 62 cannot be reversed, an Official Notice is taken that the use of reversible cover for a light source is well known in the art. Casas, as modified by Richards, also teaches that the translucent material 62 is plastic. It should be noted that the plexiglass is a trademark for thermoplastic poly (methylmethacrylate) type polymers which considered to be plastic. See col. 7, lines 25-35 in Budde et al. (4,774,637). Casas, as modified by Richards, also teaches that the translucent material is glass.

Regarding claims 47, 48, and 50, Casas, as modified by Overy, teaches that the light source mounting means or a plate 10 is affixed to the brake release. Casas does not explicitly teach that the plate is located within the brake release handle and is attached to an interior surface of the rear wall. However, Richards teaches that the light source 30 is affixed to a plate attached to a rear wall 56 and is located within the handle. It should be noted that the rear plate that holds LEDs attached to the interior surface of the rear wall 56. It should be also noted that the handle 18 includes an upper portion 17 that also considered being a portion of the handle. See Fig. 3 in Richards. It should have been obvious to a person of ordinary skill in the art to attached the plate of the light source in Casas' chain saw, as modified by Overy, to an interior surface of the rear wall in the handle, as taught by

Art Unit: 3724

Richards, since the light source works the same whether it is attached to the front wall or the rear wall of the release handle, and in both cases light emanates from the front wall of the handle. There is no criticality in the manner that the light source is attached to the handle. The light source functions in the same manner whether is attached to an interior surface of the rear wall or in front on the front wall.

Regarding claims 54-55, Casas, as modified by Overy, teaches everything noted above except that the brake release handle further includes a switch for activating the light source and the switch is located in the rear wall. However, Richards teaches that a switch 70 attached to the rear wall 17 of the handle for activating the light source. See Fig. 3 and paragraph 46 in Richards. It should have been obvious to a person of ordinary skill in the art to provide Casas' chain saw, as modified by Overy, with a switch, as taught by Richards, in order to easily access the activation switch of the light source and activate the light source when is needed.

6. Claims 52 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Casas in view of Overy and Richards, as applied to claim 49, and in further view Of Kopras et al. (6,443,675), hereinafter Kopras. Regarding claims 52 and 53, Casas, as modified above, does not teach explicitly that the light source includes two or more light emitting diodes. However, the use of two or more light emitting diodes to illuminate a front area of a cutting tool is well known in the art such as taught by Kopras. Kopras teaches a hand-held cutting tool 20 including a light source 130 for illuminating the front area of the cutting tool. Kopras also teaches that the light source includes two or more light emitting diodes. See Fig. 11 and col. 18, lines 26-67 in Kopras. It would have been obvious to a person of ordinary skill in the

Art Unit: 3724

art to provide the light source in Casas' chain saw, as modified above, with light emitting diodes, as taught by Kopras, in order to improve the visibility of the workpiece at the point of a cut being made.

Response to Amendment

7. Applicant's arguments with respect to claims 41, 43-4, and 46-55 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's argument that the drawings should not be objected since a motor chain saw as set forth in claim 41 is well known in the art such as the chain saw described in Schurr (4,683,660) is not persuasive. As stated in the previous Office Action, drawings must show every feature of the invention specified in the claims. In this case, a motor chain saw set forth in claim 41 must be shown. As stated above, it is suggested that the chain saw in Schurr to be used as an exemplary view of the chain saw that has a light source as described in the instant application. In this case, the brake lever in the instant application could replace the brake lever in Schurr.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Nagashima (4,793,064) teach a chain saw machine having a brake release.

Cross (6,203,181) and Keech teaches a light source having a front wall including plexiglass.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571)272-4501.

The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

Art Unit: 3724

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ghassem Alie
Patent Examiner
Art Unit 3724

February 12, 2007